

CRAWLEY PETROLEUM CORP.

IBLA 94-504

Decided September 16, 1997

Appeal from a Decision of the Deputy State Director, Lands and Minerals, New Mexico State Office, Bureau of Land Management, upholding, on State Director Review, a Tulsa District Office decision requiring amendment of Monthly Report of Operations to correct under-reporting of amount of oil produced and stored at well site. SDR 94-022.

Affirmed.

1. Oil and Gas Leases: Production

A BLM decision requiring an oil and gas lease operator to amend its Monthly Report of Operations to correct an under-reporting of the amount of oil produced and stored at its well site will be affirmed on appeal where the record substantiates BLM's factual finding that the amount of such oil was under-reported, and the operator fails to overcome that finding by a preponderance of the evidence.

APPEARANCES: David A. Roddy, Operations Engineer, Crawley Petroleum Corporation, Oklahoma City, Oklahoma, for Appellant; Arthur Arguedas, Esq., Office of the Field Solicitor, U.S. Department of the Interior, Santa Fe, New Mexico, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

The Crawley Petroleum Corporation (Crawley) has appealed from a March 29, 1994, Decision of the Deputy State Director, Lands and Minerals, New Mexico State Office, Bureau of Land Management (BLM), upholding, on State Director Review (SDR), a February 10, 1994, Decision of the Tulsa District Office, New Mexico, BLM, which determined that it had under-reported, on its "Monthly Report of Operations" (MRO) (FORM MMS-3160 (REV. 9/92)), the amount of oil produced from the K.C. Cattle No. 1-30 well and stored at that well site on May 1, 1993. The March 29, 1994, Decision stated that the Tulsa District Office required Crawley to amend its MRO accordingly. Crawley is the operator of the well, which is situated in sec. 30, T. 13 N., R. 20 W., Indian Meridian, Custer County, Oklahoma.

On May 3, 1993, Fred Johnson, a BLM Petroleum Engineering Technician, inspected Crawley's well operations, taking measurements of the amount of oil and water stored in a 300-barrel (bbl) tank (No. 157392) at the well

site. See Inspection Record-Production, dated May 3, 1993, at 1. He reported that there was 6 feet 11-3/4 inches of oil, after subtracting for a small quantity of water (4 inches). See id. The BLM thus determined that there were 141 bbl's of oil in the tank. See Audit History Sheet at 1. That amount represented the total accumulated production which then remained stored at the well site. See Memorandum to Field Solicitor from Deputy State Director, dated May 25, 1994, at 2. By contrast, BLM noted that Crawley's MRO reported that, as of May 1, 1993, only 32 bbl's of oil were stored at the well site. See Audit History Sheet at 1; Letter to Crawley from District Office, dated Nov. 30, 1993, at 1. The BLM further noted that Crawley's pumper's gauge reported that, as of May 3, 1993, 28.54 bbl's of oil were stored at the site. See id.

Based on the inspection results and subsequent review and comparisons, the District Office determined that Crawley had failed to report the storage of 112 bbl's of oil at the site of the K.C. Cattle No. 1-30 well on its May 1993 MRO. 1/ Crawley was notified of this deficiency by letter dated November 30, 1993, and afforded an opportunity, within 20 business days of receipt of the letter, to substantiate the accuracy of its MRO. It responded on January 24, 1994, challenging the District Office's deficiency determination:

[T]he [BLM] inspector who took measurements has not responded to our phone calls. We would like assurance based on his notes and recollection that the tanks were properly gauged, the volume of fluid present correctly determined, and that the percentages of water and oil present were correctly determined.

We strongly disagree with the discrepancy between the inspector's measured volume and the volume reported by our pumper. Our field personnel are experienced and competent and we are confident the information we receive is accurate. [2/]

(Letter to District Office, dated Jan. 20, 1994, at 1.)

The District Office notified Crawley, in its February 10, 1994, Decision, that it was not persuaded to overturn its determination that Crawley had under-reported storage in the amount of 112 bbl's of oil. Crawley then sought SDR on February 22, 1994, pursuant to 43 C.F.R. § 3165.4(a). It provided a copy of its "Eight Day Gauge and Production Report" (Eight Day

1/ The 112 bbl's actually represented the discrepancy between the volume determined by BLM, based on Johnson's May 3, 1993, measurement, and that reported by Crawley's pumper for that date.

2/ Crawley noted however that the MRO was in "error," reporting about 4 bbl's of oil more than reflected on its pumper's gauge for May 1, 1993, and thus an amended MRO was being submitted. (Letter to District Office, dated Jan. 20, 1994, at 1.) A reprint of an Amended Report dated Feb. 2, 1994, which was received from BLM on Aug. 27, 1997, reports that 28 bbl's were on hand as of the start of May 1993.

Report), which covered the period from May 2 through 9, 1993. This report indicated that, as of May 3, 1993, and throughout that time period, there was 1 foot 5 inches of oil in tank No. 157392, after subtracting for a large quantity of water (3 feet 8 inches), or 28.39 bbl's of oil. It also noted that there were 3 inches of oil in a water tank, or an additional 5.01 bbl's of oil. Crawley argued: "[T]he recorded volumes of oil and water for May 3, 1993 as reflected on the * * * eight day gauge report are correct. The storage tanks on this property are gauged and the volumes recorded on a daily basis." (Letter to BLM, dated Feb. 18, 1994, at 1.)

In upholding the District Office's February 1994 Decision, the Deputy State Director, in his March 1994 Decision, primarily relied on "[Johnson's] experience * * * and an analysis of his procedures," stating: "[Johnson] states his measurement is accurate. He has provided a copy of his inspection report. Also, requested of him was a description of his procedures when measuring this tank. His inspection report and his measurement procedures appeared to be done properly." 3/ (Decision at 1.) Crawley appealed from the March 1994 Decision.

In its NA/SOR, Crawley principally contends that the volume of oil, which is recorded on its Eight Day Report for May 3, 1993, is "correct," and thus its MRO was likewise accurate. (NA/SOR at 1.)

The BLM responded to the NA/SOR, challenging Crawley's assertion that its May 3, 1993, measurement was inaccurate: "Based on the BLM Inspector's knowledge of oil measurement procedures, there is no reason to doubt the

3/ The Deputy State Director also noted that Crawley's challenge to the accuracy of BLM's measurement of oil stored at the well site on May 3, 1993, was undermined by the fact that its own Eight Day Report was of "questionable" accuracy. (Decision at 1.) He specifically noted that it did not report that there had been any reduction in the amount of water in storage or any production of oil from the well, despite the fact that there was oil production and water was removed. We fail to see how any inaccuracy with respect to water storage or gas production raises any question regarding the accuracy of the reported oil in storage. In any case, we are not persuaded that the Eight Day Report was inaccurate in these respects. While it stated, as BLM pointed out, that a new seal was placed on a tank valve, there is nothing to indicate that there had been any reduction in the amount of water in the tank. See Notice of Appeal/Statement of Reasons for Appeal (NA/SOR) at 2 ("There was no [water] removed from the lease on [May 4, 1993]"). The BLM has provided no evidence to that effect, and acknowledges that water "may have been removed from the tank." (Memorandum to Field Solicitor from Deputy State Director, dated May 25, 1994, at 2.) Further, while the Eight Day Report stated, as BLM pointed out, that there was gas production, there is nothing to indicate that there was also oil production. See NA/SOR at 3 ("[I]t is common for gas wells to * * * produce for a period of time with no [oil] production"); "Daily Gauge Sheet Summary." The BLM has provided no evidence to the contrary. At best, it concludes that "it is likely that some [oil] would have been produced during th[e 8-day] period." (Memorandum to Field Solicitor from Deputy State Director, dated May 25, 1994, at 2.)

accuracy of the Inspector's gauge on May 3, 1993. We contend that his measurement procedures were correct and that his on-hand volume determination is also correct." (Memorandum to Field Solicitor from Deputy State Director, dated May 25, 1994, at 1.)

At the outset, it is clear that the amount of oil stored at the K.C. Cattle No. 1-30 well site, which Crawley failed to report on its May 1993 MRO, was 109, not 112, bbl's. This represented the discrepancy between what Crawley reported in the MRO (32 bbl's) and what BLM found when it inspected the site on May 3, 1993 (141 bbl's).

Crawley does not contend that BLM is not legally authorized to require the filing of an MRO which accurately accounts for all of the oil stored at a well site. Regulation 43 C.F.R. § 3162.4-3 requires an operator to submit an MRO "for each calendar month, beginning with the month in which drilling operations are initiated, * * * on or before the 10th day of the second month following the operation month, unless an extension of time for the filing of such report is granted by [BLM]," and to continue to do so until the lease is terminated or BLM authorizes omission of the report.

In addition, the regulation provides that the report "shall disclose accurately all operations conducted on each well during each month." Id. (emphasis added). It further states that the report shall particularly show the "quantity of oil, gas and water produced * * * and other required information." Id. Such information includes oil and condensate "On hand, Start of Month." (FORM MMS-3160 (REV. 9/92).) Thus, where BLM detects an inaccuracy with respect to required information, it may properly require an operator to correct it.

[1] What Crawley does object to is BLM's factual determination, based on the BLM inspector's report, that it failed to accurately report the amount of oil stored at the well site on May 3, 1993. In order to overcome that determination, Crawley must establish, by a preponderance of the evidence, that the BLM inspector erred in measuring the amount of oil stored at the site, because his measurement technique was in some way flawed, because he simply failed to correctly read or record his measurement, or on some other basis. See Mallon Oil Co., 107 IBLA 150, 159 (1989); Sun Oil Co., 91 IBLA 1, 22, 93 Interior Dec. 95, 106 (1986), aff'd sub nom., Clark Oil Producing Co. v. Hodel, 667 F. Supp. 281 (E.D. La. 1987).

Crawley makes no attempt to demonstrate that the technique employed by Johnson to gauge the amount of oil in tank No. 157392 on May 3, 1993, was flawed in any way. It has also not sought to rebut BLM's assertion that, by "knowledge" and "experience," Johnson was qualified to take an accurate reading. (Decision at 1; Memorandum to Field Solicitor from Deputy State Director, dated May 25, 1994, at 1.) Crawley has further made no attempt to show that Johnson did not correctly read or record his measurement.

In an effort to establish that Johnson's measurements were not correct, Crawley argues that the fact that no oil was removed from the tank between May 3, 1993, and October 2, 1993, when the tank registered full,

proves that the amount of oil recorded by Johnson on May 3, 1993, could not have been accurate, otherwise the tank would have overflowed on October 2, 1993. (NA/SOR at 2.) However, sufficient data has not been provided to conclude that the fact that the tank was not overflowing on October 2, 1993, disproves the accuracy of Johnson's original reported amount. It is just as likely that the amount of fluid added during this period would, together with Johnson's reported amount, have filled the tank.

Crawley relies almost exclusively on the asserted accuracy of its own measurement of the oil in storage at the well site on May 3, 1993. 4/ However, that clearly does not rebut BLM's measurement. Moreover, it is critical to Crawley's case that it demonstrate the inaccuracy of BLM's measurement. Mallon Oil Co., 107 IBLA at 159; Victor P. Smith, 101 IBLA 100, 104 (1988); Sun Oil Co., 91 IBLA at 22, 93 Interior Dec. at 106. Absent any attempt to do so, BLM's measurement will be upheld. This is especially so since, as we have long held, the Department is entitled to rely on the reasoned analysis of its technical experts in matters within the realm of their expertise, which is the case here. Mallon Oil Co., 107 IBLA at 159; Victor P. Smith, 101 IBLA at 104; Sun Oil Co., 91 IBLA at 22, 93 Interior Dec. at 106; Woods Petroleum Co., 86 IBLA 46, 52-53 (1985).

We, therefore, conclude that Crawley has failed to demonstrate, by a preponderance of the evidence, that the BLM inspector failed to accurately measure the amount of oil stored at the K.C. Cattle No. 1-30 well site on May 3, 1993. Since there was a clear discrepancy between that amount and the amount reported by Crawley on its May 1993 MRO, we hold that the Deputy State Director, in his March 1994 Decision, properly upheld the District Office's February 1994 Decision.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

I concur:

Will A. Irwin
Administrative Judge

4/ Crawley particularly notes the fact that its measurement on Mar. 2, 1994, agreed with that of BLM generally "proves" the accuracy of its measurements, including the one taken on May 3, 1993. (NA/SOR at 3.) However, as BLM properly notes, this equally demonstrates the accuracy of BLM's May 3, 1993, measurement. See Memorandum to Field Solicitor from Deputy State Director, dated May 25, 1994, at 2.